

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AUBREY CHRISTIAN,

Plaintiff,

Case No. 12-cv-12936

v.

HONORABLE STEPHEN J. MURPHY, III

MICHIGAN DEPARTMENT OF
CORRECTIONS - HEALTH SERVICES,
et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (docket
no. 43) **AND GRANTING MOTION TO VOLUNTARILY DISMISS** (docket no. 39)

This is a prisoner civil rights case. Plaintiff Aubrey Christian, proceeding pro se, contests the conditions of his detention at the Michigan Department of Corrections under 42 U.S.C. § 1983, alleging denial of medical care and cruel and unusual punishment. The Court referred all pre-trial proceedings to Magistrate Judge Michelson for resolution or recommendation. On February 25, 2013, Christian filed a motion to voluntarily dismiss some, but not all, of the "Doe Defendants" who he had previously not identified and have not filed an appearance. Mot. to Dismiss, ECF No. 39. Specifically, Christian seeks to dismiss John Doe, M.D. #1; John Doe, M.D. #2; Jane Doe, M.D. #1; Robert Jordan, M.D. (misnamed); John Doe, R.N.; and Jane Doe Warden. *Id.* at 3.¹

On March 21, 2013, the Magistrate Judge issued a Report and Recommendation ("Report"). ECF No. 43. The Magistrate Judge recommended granting the motion under Civil Rule 41(a)(2), finding that none of the named Doe defendants were properly identified,

¹ Christian's motion would retain John Doe, M.D. #3; John Doe, P.A.; and Jane Doe, R.N. as defendants.

dismissal would have been proper under Civil Rule 41(a)(1) as well, and no prejudice to the Doe defendants would result from a voluntary dismissal. Report at 3-4.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he is entitled to review the magistrate judge's findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation "de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard").

Because neither party filed objections to the Report, de novo review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings and deny the motion for class certification.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation (docket no. 43) is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion to Voluntarily Dismiss Certain Doe Defendants (docket no. 39) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's claims against "John Doe, M.D. #1; John Doe, M.D. #2; Jane Doe, M.D. #1; Robert Jordan, M.D. (misnamed); John Doe, R.N.; and Jane Doe Warden" are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: May 6, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on May 6, 2013, by electronic and/or ordinary mail.

Carol Cohron
Case Manager